

**PUBLIC WORKS DEPARTMENT
BUILDINGS AND ROADS BRANCH**

AMBALA CIRCLE

The 1st October, 1974

No. SE/Ambala/Circle/PWD/B&R Branch 508.—Whereas the Governor of Haryana is satisfied that the land specified below is needed by Government, at public expense, for a public purpose namely, for construction of link road from P. N. Road to village Johluwal, it is, hereby declared that the land described in the specification below is required urgently for the above purpose.

This declaration is made under the provision of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provision of section 7 of the said Act, the Land Acquisition Collector, P. W. D., B. & R. Branch, Ambala Cantt, is hereby directed to take order for the acquisition of the said land.

Plans of the land may be inspected in the offices of Land Acquisition Collector, Ambala and of the Executive Engineer, Construction Division No. II, Chandigarh.

SPECIFICATION

District	Tehsil	Village	Area in acres	No. of Khasra	Remarks
Ambala	Kalka	Johluwal Hidbast No. 129	2.71	463 to 465, 470, 471, 494 to 498, 489, 488, 499, 500 to 507, 512, 540 to 544, 547 to 550, 555 to 557, 559, 588, 583, 588 to 591, 587, 588	

(Sd.) . . . ,

Superintending Engineer,
Ambala Circle.

LABOUR DEPARTMENT

The 4th October, 1974

No. 9074-4Lab-74/31563.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Hindustan Machine Castings, Faridabad.

**BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD**

References Nos. 71, 88, 93 of 1972

between

Sarvshri Ram Sewak, Bir Bali, Didar Singh workmen and the management of M/s Hindustan Machine Castings, 16/2, Mathura Road, Faridabad

Present :—

Shri Roshan Lal Sharma, for the workmen.

Shri R. C. Sharma, for the management.

AWARD

This judgement will dispose of this and the connected references Nos. 88 and 93 of 1972 which stand consolidated on the request of the parties to avoid duplication of work since some common questions of law and fact were involved in all the cases. The material facts may shortly be stated as under :—

The management of M/s Hindustan Machine Casting, 16/2, Mathura Road, Faridabad, terminated the services of its workmen Sarvshri Ram Sewak, Bir Bali and Didar Singh. Feeling aggrieved, they raised a demand for reinstatement whereupon conciliation proceedings were held which, however, ended in failure.

On receipt of the failure report from the Conciliation Officer in each case the disputes were referred for adjudication to this Tribunal by the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference which is common in all the cases :—

Whether the termination of services of the workman concerned was justified and in order? If not, to what relief is he entitled?

The parties put in their pleadings. The workmen reiterated their claim for reinstatement and payment of back wages alleging that their services had been terminated by the management illegally, without any notice or charge-sheet. The management, on the other hand, contested their claim mainly on the ground that they had absented themselves from duty from 29th July, 1972, without any proper authorisation and as such it was a case of self-abandonment of service by the workmen concerned. It was further pleaded that the demands, the subject-matter of the present references, were not first raised on the management and rejected by it before taking up the matter for conciliation and as such no industrial dispute existed within the meaning of the Industrial Disputes Act, 1947, as defined under section 2(k).

The following two issues arose for determination which are common in all the cases:—

- (1) Whether the demand, the subject-matter of the present reference, was first raised on the management and rejected by it before taking up the matter for conciliation? If not, with what effect? (on workman).
- (2) Whether the termination of services of the workman concerned was justified and in order? If not, to what relief is he entitled?

The workmen have made their own statements and produced the demand notice dated 29th July, 1972, Exhibit W-1. The management has examined Shri Darshan Lal, Proprietor, and brought on record the copy of the representation alleged to have been made by the workmen in the factory to the Prime Minister of India and other authorities Exhibit M-1, extract of the entries in the attendance register pertaining to the workmen concerned, Exhibit M-2, notice of conciliation dated 1st August, 1972, received from the Labour-cum-Conciliation Officer, on the basis of the demand notice dated 29th July, 1972, of the workmen, letter dated 31st March, 1973, received from M/s Mechelec Engineers and Manufacturers, Delhi Road, Gurgaon, Exhibit M-4.

The case has been well argued on both sides and I have given very careful consideration to the material on record.

As would be clear from the perusal of the demand notice dated 29th July, 1972, given in each case, according to the showing of the workmen themselves the demands were raised by them on that very day by sending the demand notices to the Conciliation Officer whereupon conciliation proceedings were initiated. There is no proof that the demand notices were first given to the management. According to the sworn testimony of Shri Darshan Lal, Proprietor, M.W. 1, a copy of the said demand notice was for the first time received from the Conciliation Officer vide his letter dated 1st August, 1972, Exhibit M-3. The law is well settled on the point. According to the rule of law laid down by Hon'ble the Supreme Court in the of aquoted case of Sindhu Resettlement Corporation, the demand has first to be raised on the management and rejected by it before it can constitute an industrial dispute within the meaning of law which presupposes that the management should have reasonably made to consider the demand to accept or reject the same as the case may be. This important requirement of law was manifestly not satisfied in the instant case as the workmen gave the demand notices on the very day their services were allegedly terminated although the date of the termination of their services by striking their names off rolls is much later as would shortly appeared. They are further not clear as to at what time their services were terminated nor are they clear about the time and the manner of the preparation of the demand notices and their delivery to the management. In any case, the giving of the demand notices to the management on the same day the conciliation proceedings were initiated does not amount to compliance of the rule of law as laid down in the aforesaid authority to constitute an industrial dispute. The learned representative of the workman has not been able to satisfy me to the contrary. So, taking into consideration the facts brought on record and the proposition of law discussed above I am satisfied that the workmen had simply failed to discharge the burden of Issue No. 1. In the absence of cogent and convincing evidence it cannot be held that the demands, the subject-matter of the present reference, had first been raised on the management and rejected by it so as to constitute industrial disputes, which could validly be referred for adjudication to this Tribunal. Issue No. 1 is accordingly decided against the workmen.

Issue No.

As already pointed out the case for the management is that as a matter of fact, these workmen had absented themselves from duty without any proper authorisation from 29th July, 1972, onwards which fact has been established beyond any shadow of doubt from the relevant entries in the attendance register. I do not see any reason to disbelieve the genuineness of the entries in the attendance register. It has further come in the statement of Shri Darshan Lal, M. W. 1, that as a matter of fact the workers in the sister concern known as M/s Sethi Foundries had gone on strike and the present workmen had absented themselves from duty to join that strike. The management has brought on record the copy of the representation said to have been made by the workmen, Exhibit M-1, on record wherein the factum of the said strike from 28th July to 22nd August, 1972, has been admitted in so many words. The management had waited till 10th August, 1972 and as the workmen did not report for duty nor did they obtain leave for this period, their names had to be struck off the rolls. In the circumstances these are clearly cases of self-abandonment of service by the workmen without any illegal and unjustified action on the part of the management. The workmen have made no attempt to justify their absence from duty during this period.

No other point worth consideration has been urged and that disposes of issue No. 2 which is also decided against the workmen and in favour of the management holding that the workmen had left the services of the management of their own accord by remaining absent from duty without any proper authorisation. It will not be out of place to mention here that as per the letter, Ex. M.-4, Sarvshri Ram Sewak and Didar Singh had even joined services with M/s Mechelec Engineers and Manufacturers, Delhi Road, Gurgaon, from September, 1972.

In view of the facts discussed and my findings on the issues involved, the workmen are not entitled to any relief by way of reinstatement or payment of back wages. The award is made accordingly but without any order as to costs.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated 17th September, 1974.

No. 1060, dated 24th September, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated the 17th September, 1974.

No. 9070-4Lab-74/31644.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Frick India Ltd., Faridabad.

**BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD**

Reference No. 147 of 1973

between

**SHRI RAM JIWAN WORKMAN AND THE MANAGEMENT OF M/S FRICK INDIA LTD.,
MATHURA ROAD, FARIDABAD**

Present—

Nemo, for the workman.

Shri S. L. Gupta, for the management.

AWARD

By order No. ID/FD.73/37044 dated 28th August, 1973, of the Governor of Haryana, the following dispute between the management of M/s Frick India Ltd., Mathura Road, Faridabad, and its workman Shri Ram Jiwan was referred for adjudication to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ram Jiwan is justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, usual notices were given to the parties. The workman concerned is not coming forward to pursue his claim nor any union leader to represent him. On the other hand, the management has pleaded settlement of the dispute and filed certain documents in support of this plea. The statement of Shri S. L. Gupta, authorised representative of the management has been recorded. According to him, this workman had approached the management for the settlement of his account,—*vide* his application dated 6th August, 1973, Exhibit M-1. His account was accordingly checked and the sum of Rs. 131.65 found due as per mutual calculation was paid to him,—*vide* his endorsement on Exhibit M-2 which is in his hand and under his signatures. He has further stated that on the same day he had addressed the application copy Exhibit M-3 to the Labour-cum-Conciliation Officer for the withdrawal of his dispute on account of the above settlement with the management.

In view of the above, I am satisfied that the workman concerned had already settled his dispute with the management and received his dues, in full and final settlement of his claim, and as such the dispute no longer survives. A no-dispute award is, therefore, made in the light of my above observation. There shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 11th September, 1974.

No. 1050, dated the 24th September, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 11th September, 1974.

No. 9098-4Lab-74/31646. —In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Gauri Weaving Factory, Sonapat.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 40 of 1974

between

SHRI RAM KIDAR AND THE MANAGEMENT OF M/S GAURI WEAVING FACTORY,
SONEPAT

Present :—

Shri Rajinder Singh, for the workman.

Shri Rajinder Parshad, for the management.

AWARD

The following dispute between the management of M/s Gauri Weaving Factory, Sonapat, and its workman Shri Ram Kidar was referred for adjudication to this Court, - vide order No. ID/RK/272-C-74/18171-75, dated 2nd July, 1974 of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 :—

“Whether the termination of services of Shri Ram Kidar was justified and in order ? If not, to what relief is he entitled?”

On receipt of the order of reference usual notice were given to the parties who obtained some adjournments to settle the dispute outside the court and the settlement has been arrived at as per the statements of Shri Rajinder Parshad, Partner of the respondent and Shri Rajinder Singh authorised representative of the workman. According to the settlement, Shri Ram Kidar is being re-employed on the same terms and conditions as before and he has required to report for duty within 15 days from today. He has foregone his claim for back wages.

In view of the above, no further proceedings are called for in the case and the award is given in terms of the above settlement arrived at between the parties. There shall be no order as to costs.

Dated 26th September, 1974.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2390, dated 27th September, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 9081-4Lab-74/32007.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Prestolite of India Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 4 of 1973

between

SHRI AJAY PAL SINGH WORKMAN AND THE MANAGEMENT OF M/s. PRESTOLITE
OF INDIA LTD., MATHURA ROAD, FARIDABAD

Present.—

Shri Ajay Pal Singh workman with Shri Amar Singh, President General Engineering
Mazdoor Council, for the workman.

Shri O. P. Malhotra, for the management.

AWARD

By order No. ID/FD/72/521, dated 5th January, 1973 of the Governor of Haryana, the following dispute between the management of M/s Prestolite of India Ltd., Mathura Road, Faridabad and its workman Shri Ajay Pal Singh was referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the dismissal of Shri Ajay Pal Singh was justified and in order ? If not, to what relief is he entitled?

The parties have arrived at an amicable settlement, as per terms and conditions given in the memorandum of settlement, dated 9th September, 1974 Ex. M-1. According to the statement of Shri O. P. Malhotra, Factory Manager, the workman had approached the management for the settlement of the dispute and an amicable settlement has been arrived at and it has been agreed that a sum of Rs 1,344.04 is due to him. This amount has been paid to him before the Court, in full and final settlement of his entire claim against the management, and he has given up his right of reinstatement or re-employment, the receipt for the amount has been passed on by him to the management, duplicate copy whereof is Ex. M-2 on record.

In view of the above, the dispute does not survive and a no dispute award is accordingly given in terms of the above settlement holding that the workman concerned is not entitled to any other relief. In the circumstances, there is no order as to costs.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 20th September, 1974.

No. 1055, dated 24th September, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 20th September, 1974.

No. 9080-4Lab-74/32009.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s British Machinery Supply Company, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 98, 99, 103, 108 of 1974

between

SARVSHRI ASHOK KUMAR, MOHD. SADIQ, FATEH MOHMAD, SHABIR AHMAD
WORKMEN AND THE MANAGEMENT OF M/s BRITISH MACHINERY SUPPLY
CO., FARIDABAD

Present.—

Shri Roshan Lal Sharma for the workmen.

Shri D. C. Bhardwaj for the respondent management.

AWARD

This judgement will dispose of this and the connected references Nos. 99, 103, 108 of 1973 which have been consolidated on the request of the parties to avoid duplication of work. The material facts may shortly be stated as under :—

The management of M/s British Machinery Supply Co. Faridabad, terminated the services of its workman, namely, Ashok Kumar, Muhmad Saddiq, Fateh Mohmad and Shabir Ahmad allegedly on the basis of the resignation submitted by them. They, however, raised disputes which were referred for adjudication to this Tribunal by order No. ID/FD73/20432, dated 19th June, 1973 of the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 with the following term of reference which is common in all the cases.

Whether the termination of services of the workmen concerned was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties who have arrived at an amicable settlement. Their statements have been recorded. As per the statement of their authorised representative Shri Roshan Lal Sharma Sarvshri Ashok Kumar and Fateh Mohmad had admittedly submitted their resignations and received their dues from the management and he has no instruction from them to proceed with their present disputes. As for the remaining two workmen Shabir Ahmad and Mohmad Sadiq also the factum of resignations tendered by them is not disputed. According to the statement of Shri P. N. Verma Proprietor of the company these workmen had received their legal dues. However, by way of goodwill he has agreed to pay to them Rs. 250 each on 1st October, 1974 before the Court. This offer has been accepted by the workman as per their own statements as well as the statement of their authorised representative Shri Roshan Lal Sharma.

In view of the facts stated above, no further proceedings are called for in the case. Sarvshri Ashok Kumar and Fateh Mohmad (workmen concerned in reference No. 98 and 103 of 1973 respectively) who have not come forward to press their claims and have admittedly tendered their resignations and received their dues are not entitled to any other relief against the management. The remaining two workmen Mohd. Sadiq and Shabir Ahmad in reference Nos. 99 and 108 of 1973 are also not entitled to the relief of reinstatement on account of their voluntarily resignation nor any back dues except for the sums of Rs. 250 each which the management has agreed to pay to them by way of goodwill. These amounts shall be paid to these workmen before the Court on 1st October, 1974. A joint award is accordingly made in all the references. There shall be no order as to costs.

Dated 19th September, 1974.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

No.7105, dated 24th September, 1974.

Forwarded (four copies to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

Dated 19th September, 1974.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9078-4Lab-74/32011.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of Delhi, Automobiles (P) Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 19 of 1972

between

SHRI K. L. BEDI AND THE MANAGEMENT OF M/s. DELHI AUTOMOBILES (P) LTD.,
MATHURA ROAD, FARIDABAD

Present.—

Shri Sushil Bhattacharia, for the workman.

Shri Mangal Singh, for the management.

AWARD

Shri K. L. Bedi concerned workman was in the service of M/s Delhi Automobiles (P) Ltd., Mathura Road, Faridabad as a Mechanic. His services were terminated by the management with effect from 3rd July, 1971. He raised a demand for reinstatement but without success. This gave rise to an industrial dispute. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the dispute for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, vide order No. ID/FD/765-A-71/323, dated 5th January, 1972 with the following term of reference.

“Whether the termination of services of Shri K. L. Bedi was justified and in order? If not, to what relief is he entitled?”

The management contested the claim of the workman and the only issue that arose for determination in the case was precisely the same as per the term of reference stated above.

The parties have not yet led any evidence. It is, however, unnecessary to go into the merits of the case as an amicable settlement has been arrived at. Shri K. L. Bedi workman concerned has been taken back on duty on the same terms and conditions as before with continuity of previous service and has been paid Rs 2,000 in lieu of the wages for the period of unemployment. He has already joined his duty.

In view of the above, the dispute no longer survives and no dispute award is given in terms of the above settlement arrived at between the parties. There shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated 17th September, 1974.

No. 2387, dated 27th September, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employments Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 4th October, 1974

No. 9297-4-Lab-74/32013.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana Rohtak in respect of the dispute between the workmen and the management of M/s Ameteeep Machine Tools (P) Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 31 of 1971

between

SHRI SADHU SINGH AND THE MANAGEMENT OF M/s AMETEEEP MACHINE TOOLS (P) LTD.,
FARIDABAD

Present.—

Shri R.N. Roy for the workmen.

Shri D.C. Bhardwaj, for the management.

AWARD

Shri Sadhu Singh concerned workman was in the service of M/s Ameteeep Machine Tools (P) Ltd., Faridabad as a Shaperman since 8th September, 1960. He was dismissed from service, vide order dated 14th September, 1970 allegedly on a charge of misconduct in the discharge of his duty and after holding domestic enquiry. Feeling aggrieved he raised a demand for reinstatement alleging that he had not committed any misconduct and, therefore, the dismissal order was wrong and illegal. The management did not accept his demand. This gave rise to an industrial dispute. The matter was taken up for conciliation by means of the demand notice dated 15th September, 1970 which, however, ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 referred the above dispute for adjudication to this court,—vide order No. ID/FD/32-A/8222-26, dated 18th February, 1971, with the following term of reference :—

“whether the termination of services of Shri Sadhu Singh was justified and in order? If not, to what relief is he entitled?”

The parties were called upon to put in their respective pleadings in writing. The workman reiterated his demand for re-instatement and payment of back wages as earlier raised through the demand notice leading to the present reference. The management on the other hand, contended that the workmen in the establishment had raised certain demands in respect of which a long-term comprehensive settlement was arrived at between the parties before the Conciliation Officer, Faridabad, on 20th June, 1969 and it was agreed that all the demands and disputes pending before any Authority on the date of the said agreement would be treated as fully settled/withdrawn and the workmen shall not raise any demand involving financial burden for a period of two years. It was further urged that in spite of the aforesaid agreement the General Labour Union, Faridabad, had given the demand notice, dated 17th August, 1970, to the management asking for 25 percent increase in their wages by way of dearness allowance. It was further alleged that on 27th August, 1970, at about 10 A.M. Shri Sadhu Singh, the present workman had resorted to strike and continued loitering about in the factory and instigated the other workers to remain on strike. The management issued general notices advising the workers not to resort to a tool down strike and to resume their respective duties immediately but in spite of this notice Shri Sadhu Singh and all other workmen remained on tool down strike and general strike. Shri Sadhu Singh was, therefore, given the charge-sheet on the same day for his disorderly behaviour and insubordination and for bringing about illegal strike in the factory. He did not submit any explanation to the said charge-sheet. The matter was entrusted to the Enquiry Officer but in spite of letters issued by the Enquiry Officer Shri Sadhu Singh did not participate in the enquiry. The Enquiry Officer after recording the evidence of the management submitted, his report on 13th September, 1970, holding him guilty of the charges levelled against him by the management and after considering his findings of guilty the management dismissed him from service as stated above.

In his replication to the above written statement, Shri Sadhu Singh controverted the allegations of the management. He denied having entered into the aforesaid settlement, dated 20th June, 1969, with the management and also the allegation that he had resorted to or instigated the other workmen to go on strike, although they had been pressing for better service conditions and it was their legal right to resort to tool down strike when their rightful demands were not accepted by the management. He further challenged the validity of the domestic enquiry alleged to have been conducted against him. According to him, he was neither given any charge-sheet nor any adequate opportunity to defend himself in the so called enquiry.

From the pleadings of the parties the issue that arose for determination in the case was precisely the same as per the term of reference stated above.

The management has brought on record a number of documents including the general notice, dated 27th August, 1970, asking the workmen not to resort to sit down strike and resume their duties, Exhibit M-1, registered covers, Exhibits M-2, M-3, M-4, telegrams, Exhibits M-5, M-6, receipt, Exhibit M-7, enquiry proceedings, Exhibit M-8 (12 leaves), findings of the Enquiry Officer (8 leaves), Exhibit M-9, notice of enquiry, dated 28th August, 1970, Exhibit M-10, complaint made by Shri R. S. Sharma, an officer of the Company against Shri Sadhu Singh, Exhibit M-11, another complaint by the same officer, Exhibit M-12, copy of the settlement, dated 20th June, 1969, Exhibit M-13, notice of hunger strike given by the Union Leader Shri R. L. Sharma, Exhibit M-14, general notices issued by the management against the tool down strike on 27th August, 1970, Exhibits M-15 to M-18, copy of another agreement, dated 21st November, 1970, Exhibit M-19, copy of the Certified Standing Orders of the company Exhibit M-20, general notice issued by the management on 18th August, 1970, asking the workmen to report for their duties, Exhibit M-21, Hindi version of the same, Exhibit M-22, copy of the order of the Labour Commissioner, Haryana, Chandigarh declaring the strike to be illegal, Exhibit M-23, charge-sheet, dated 27th August, 1970, Exhibit M-24, appointment letter of the Enquiry Officer Shri Satish Monga. Exhibit M-26, certificate of posting, Exhibit M-26, another certificate of posting, Exhibit M-27, copy of the telegram, Exhibit M-28, dismiss order Exhibit M-29, letter, dated 12th September, 1970 of Shri Sadhu Singh addressed to the management to the effect that he was still continuing ill and was unable to attend to his duties Exhibit M-30 and E.S.I. Slips, Exhibits M-31 and M-32

The witnesses examined by the management in support of its case include Shri Ram Sarup, Labour Officer-cum-Conciliation Officer, Faridabad, who has proved the settlement, dated 20th June, 1969, Shri Satish Monga, Enquiry Officer, Shri B. S. Sapra, Personnel Officer, Shri B. C. Rangin, Machine Shop Superintendent and Shri Rakesh Malik, Machinist.

On the other hand, Shri Sadhu Singh, workman, concerned, besides himself coming into the witness-box as W.W. 3 has examined Shri Kundan Lal, UDC Local Office, E.S.I., Faridabad and Shri Satwant Singh, Turner of Shree Gopal Paper Mill, Jagadhri, who was previously working in the respondent factory. According to Shri Kundan Lal, U.D.C., a complaint had been received by the management that Shri Sadhu Singh had produced a false medical certificate regarding his illness from 26th August, 1970 to 9th September, 1970, whereupon an enquiry into the matter was held but the said complaint of the management was found to be wrong. He has further deposed that the present workman Shri Sadhu Singh was on medical leave on 26th and 27th August, 1970. He has also stated that E.S.I. benefit was given to this workman for the period from 26th August, 1970 to 9th September, 1970, from the E.S.I. Dispensaries. Shri Satwant Singh has also supported the workman concerned with regard to his plea of illness and non-participation in the strike.

Shri Sadhu Singh, workman concerned, besides stating about his illness and treatment in the E.S.I. Dispensary from 26th August, 1970, to 9th September, 1970 has deposed that his address as given in the record of the management was 3A/70 N.I.T. Faridabad and that he had lived only for three months in another house 5L/59, N.I.T., Faridabad. He has further stated that the management had allotted him another house in which he lived for 2-3 years and then he shifted to house No. 5G/37, N.I.T., Faridabad and finally to house No. 3A/70, N.I.T., Faridabad, but during the period in question when he was ill, he lived with his friend in house No. 1B/150, N.I.T., Faridabad, intimation whereof was given by him to the management,—*vide* letter Exhibit M-30.

The documentary evidence produced by the workman consists of the letter issued by the E.S.I. Dispensary asking him to collect E.S.I. benefit for 26th and 27th August, 1970, Exhibit W.W. 1/1, letter, dated 28th November, 1970 written by him to the Labour Commissioner, Haryana. Exhibit W.W. 1/2, with copy to the Labour Officer-cum-Conciliation Officer, Faridabad, A.D. receipt Exhibit W.W. 1/3, certificate of posting, Exhibit W.W. 1/4, letter, dated 12th September, 1970, giving his address as 1B/150 N.I.T., Faridabad, Exhibit W.W. 1/5 Ex. M-30 produced by the management).

The case has been well argued on both sides and I have given a very careful consideration to the material on record. A close scrutiny of the evidence produced on both sides, documentary as well as oral, leads me to the following irresistible conclusion :—

- (i) that Shri Sadhu Singh, workman concerned, had been taken ill on 24th August, 1970 and he remained under treatment in the E.S.I. Dispensaries at Faridabad from 26th August, 1970, to 9th September, 1970 and a complaint made by the management in this behalf that he had produced false medical certificates had on enquiry by the E.S.I. Department been found to be false.
- (ii) that on account of his continued illness and medical leave during the aforesaid period, the question of his participating in any sit down or tool down strike or instigating the other workers to do so did not arise.
- (iii) that he did go to the factory on the mid-day of 27th August, 1970, to hand over the E.S.I. medical certificate regarding his illness escorted by another co-worker and the management had not produced any worker to state that Shri Sadhu Singh had instigated him to resort to strike of any kind.
- (iv) that even if it be assumed for the sake of argument that he had signed the notice, dated 27th August, 1970, Exhibit M-1 referred to above, a perusal of this document itself would indicate that he had given an assurance to the management that he would work whole-heartedly and faithfully and would not resort to any strike and that should have been the end of the matter if there had been any agitation amongst the workmen regarding the tool down strike.
- (v) that there had been no proper enquiry into the allegations of mis-conduct levelled against this workman.—*vide* charge-sheet, Exhibit M-24, for the simple and obvious reason that the letters and the telegrams were issued to him by the management on wrong address. According to the letter Exhibit M-30 produced by the management himself his address during the period in question when he was ill was 1 B/150, N.I.T., Faridabad, but even before and after the receipt of this letter all the communications had been made by the management at his previous address 3A/70, N.I.T., Faridabad. All these facts taken together give the impression that he had no knowledge about the so-called enquiry which was held at his back without giving him any adequate opportunity of defending himself.

The learned representative of the management has not been able to refute the above conclusions successfully and to satisfy me as to the contrary. So on the facts established in the case and for the reasons aforesaid, I am not satisfied that the impugned order of the dismissal from service of the present workman, who had been working as a Shaperman in the factory for 10 years or so, was justified and in order. There is nothing on the record to indicate that his past record had not been satisfactory. The issue involved is, therefore, decided against the management and in favour of the workman holding that he is entitled to reinstatement with continuity of previous service and full back wages, there being no evidence to show that he has been gainfully employed during the intervening period. The award is made accordingly. There would be no order as to costs.

Dated : The 30th September, 1974.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2453, dated 3rd October, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 9072-4Lab-74/32015.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Maheshwari and Company (P) Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 143 of 1973

between

SHRI R. D. CHUG, WORKMAN AND THE MANAGEMENT OF M/S MAHESHWARI AND COMPANY
(P), LTD., 14/4, MATHURA ROAD, FARIDABAD

Present :—

Shri R. D. Chug, workman concerned.

Shri D. C. Bhardwaj, for the management.

AWARD

Shri R. D. Chug, workman concerned, was in the service of M/s Maheshwari and Company (P) Ltd., 14/4, Mathura Road, Faridabad. The following dispute between him and the management was referred for adjudication to this Tribunal.—vide order No. ID/FD/256/37061, dated 28th August, 1973, of the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri R. D. Chugh is justified and in order? If not, to what relief is he entitled?

The parties have arrived at an amicable settlement. The management has agreed to pay Rs. 1,140 to the workman, in full and final settlement of his entire claim by 20th of October, 1974. He has accepted this offer and has foregone his right of reinstatement or re-employment.

In view of the above, no further proceedings are called for and the award is made in terms of the above settlement arrived at between the parties. The management shall pay Rs 1,140 to the workman by 20th of October, 1974, in full and final settlement of his entire claim and on receipt of this amount he shall have no right to reinstatement or re-employment. There shall be no order as to costs.

Dated the 16th September, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1062, dated the 24th September, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 16th September, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.